IN THE HIGH COURT OF JUDICATURE
AT BOMBAY
APPELLATE CIVIL JURISDICTION

FIRST APPEAL NO.32 OF 2003
WITH
CIVIL APPLICATION NO.1560 OF 2002

Smt. Sarubai Baburao Gaikwad ...Appellant
Vs.
Maharashtra Housing & Area
Development Authority & Anr. ...Respondents

Ms.Suman Jain for Appellant
Mr. Rajesh Parab for Respondents

CORAM: SMT. ROSHAN DALVI, J.
DATED: 12TH APRIL, 2007

P.C.

1. The Appellant has challenged the judgment in L.C. Suit No.7386 of 1992. The said has been dismissed with costs. The Appellant is the daughter of Respondent No.2. The Suit has been filed for the declaration of entitlement to joint occupation and possession in the alternate accommodation given by Respondent No.1 MHADA to Respondent No.2, the mother of the Appellant, and for an order of injunction against interference with the Plaintiff's possession and from dispossessing her from the Suit premises.

2. The Appellant as the Plaintiff in the suit must therefore, show her legal right, title and interest in the suit premises. She has not shown any such legal right. The evidence led by the Appellant as P.W.1 shows that the receipt of the original premises, since demolished by MHADA, was in the name of the Respondent No.2. Hence, the Respondent No.2 is the only person entitled to claim alternate accommodation.

3. The Appellant's case has been based on the footing that she was in joint occupation with her mother. Such occupation is as a licensee and family member of Respondent No.2, her mother. The Appellant has no independent right in the suit premises.

4. The learned trial Judge has considered the Appellant's case as well as the Appellant's evidence. Upon considering of the oral and documentary evidence, the Suit has been dismissed. The order is correct. The Appeal is dismissed as per the provision in Order 41 Rule 11 of the CPC.

5. The Civil Application No.1560 of 2002 is disposed off accordingly.

(SMT.ROSHAN DALVI, J.)